



Local News

EMSB 'elated' after Quebec court strikes down parts of Bill 21

In his decision, Judge Marc-André Blanchard upheld most of the law but ruled it can't be applied to English schools.

Jesse Feith • Montreal Gazette

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"We value the diversity of our students and staff and respect their personal and religious rights which are guaranteed both by the Canadian and Quebec Charters of Rights," EMSB chair Joe Ortona said in a statement. PHOTO BY ALLEN MCINNIS /Montreal Gazette

Those who challenged Quebec's secularism law before the courts welcomed a decision striking down some of its sections on Tuesday, but described the ruling as a partial victory and pledged to keep fighting.

In a lengthy decision, Justice Marc-André Blanchard upheld most of the law, known as Bill 21, while also ruling it can't be applied to English school boards in Quebec.



This means teachers who work for English school boards in the province would be exempt from the ban on religious symbols, but the law will still apply to those teaching in the French system, as well as other civil servants.

During a news conference Tuesday, Yusuf Faqiri of the National Council of Canadian Muslims (NCCM), one of the groups behind the legal challenges, said for nearly two years the law has created "second-class citizenship for Quebecers" who wear religious symbols.

"Today's (decision) ends that for some Quebecers, but not all," Faqiri said.

Lawyer Khalid Elgazzar, vice president of the NCCM, said the judgment clearly illustrates there are “fundamental problems” with the law that still need to be addressed.

Elgazzar pointed to paragraphs in the ruling in which Blanchard describes how people who wear religious symbols have been forced to choose between their faith or profession of choice.

A dilemma the judge described as a “cruel consequence that dehumanizes” those affected by the law, which he also noted particularly affects Muslim women.

Elgazzar said the group is still considering its next legal step, but “won’t stop until all Quebecers are treated equally.”

Around 100 people attended an anti-Bill 21 protest outside Premier François Legault’s Montreal office Tuesday evening, during which speakers said the fight is far from over.

“Today’s decision was somewhat disappointing but it leaves me with a little bit of hope,” said Khadija, a McGill Law student who preferred her last name not be used for privacy reasons. “One thing I found interesting in the judgment was that Justice Blanchard, he recognizes that Bill 21 does have a dehumanizing aspect to it, and the plaintiffs do feel dehumanized, and it (causes) some Quebecers to feel ostracized from their own communities, and that’s not okay.”

Khadija hopes the entirety of Bill 21 will be deemed unconstitutional eventually, given that recognition.

The English Montreal School Board, for its part, said it was “elated” by the decision, a sentiment echoed by other English school boards on Tuesday.

The EMSB had challenged the law in 2019, arguing it violates the constitutional right of Quebec’s English-language minority to govern its own schools.

Chairman Joe Ortona said the board has long maintained wearing a religious symbol at work doesn’t affect a teacher’s ability to provide quality education to students.

With the ruling, Ortona said, the board now looks forward to hiring more qualified teachers, whether or not they wear religious symbols.

“We have seen the negative impact of Law 21 on our staff and on the culture in our schools and centres,” Ortona said. “We have had to refuse employment to some qualified candidates and promotions for others, and of course many have simply not applied.”

Carol Meindl of the Quebec Federation of Home & School Associations, who also attended the protest, said Quebec shouldn’t be turning away passionate teachers given the shortage across the province.

“If the kids in the school come from different countries, different religions, different ethnic groups, then the teacher should reflect that same diversity,” she said.

Fahima Ahmed, a Westmount high school teacher who wears a hijab, called the judgment "one small victory" in a long battle.

"I'm going to take this day to celebrate; however, there is still a lot of work to be done," Ahmed said. "Just because I work in the English system, I get my fundamental right, yet my counterparts working in the French system don't? We are all Quebecers."

Bill 21 forbids the wearing of religious symbols such as turbans, kippas and hijabs for employees of the state deemed to be in positions of authority, including police officers and teachers.

In his decision, Blanchard ruled it can't be applied to English school boards since it violates minority language rights protected under Section 23 of the Charter of Rights and Freedoms, and those rights cannot be overruled by the notwithstanding clause.

Blanchard also struck down clauses pertaining to members of the National Assembly wearing face coverings.

Within hours of Tuesday's ruling, the Quebec government announced it will appeal the decision, arguing it's unacceptable that laws adopted by the legislature apply to some citizens and not others.

The groups behind the legal challenges said they will take their time to analyze the ruling before deciding what their next legal steps will be.

Katelyn Thomas of the Montreal Gazette contributed to this report.

jfeith@postmedia.com

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